

**IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF ARKANSAS  
EL DORADO DIVISION**

**MICHELLE RASBERRY, Individually  
and on behalf of all others similarly  
situated and KUMESHA WARD, JACOB  
CAIN and JOHNNY HAYNES, Each Individually**

**PLAINTIFFS**

**vs.**

**NO. 1-16-CV-01074 SOH  
*Jury Trial Demand***

**COLUMBIA COUNTY, ARKANSAS**

**DEFENDANT**

**ANSWER TO AMENDED COMPLAINT**

Comes now the Defendant, Columbia County, Arkansas, and for its Answer to the Plaintiffs' "First Amended and Substituted Complaint - Collective Action" (Doc. #45, referred to herein as "Plaintiffs' Amended Complaint") as follows:

1. The Defendant affirmatively states that the laws of Arkansas, the laws of the United States, and the allegations of the Plaintiffs' Amended Complaint speak for themselves, (the Defendant denies the allegations of the Plaintiffs' Amended Complaint, as set forth herein) and admits, upon information and belief, that the Plaintiffs live or have lived in Columbia County and that the Plaintiffs have been previously employed by Columbia County as jailers (which County employs more than 4 people), but denies, as pleaded, the remainder of the allegations in paragraphs 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, and 22 of the Plaintiffs' Amended Complaint.

2. The Defendant affirmatively states that the Plaintiffs' official county employment and payroll records and the official records of the sheriff's department and county jail speak for themselves and that at least one Plaintiff has, in an acknowledged statement in another matter, asserted that she was an "acting" supervisor (sergeant) during much or all of her employment at the

jail; the Defendant admits that the Plaintiffs were employed by the Defendant in more than one position, but most or all were employed as jailers, where they performed a host of functions, including many or all of those listed in paragraphs 27-28 of Plaintiffs' Amended Complaint, and did not generally perform other functions, including some of those listed in paragraphs 29-34 of Plaintiffs' Amended Complaint, but deny, as pleaded, the remainder of the allegations in paragraphs 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, and 36 of the Plaintiffs' Amended Complaint.

3. The Defendant affirmatively states that the laws of Arkansas and the laws of the United States speak for themselves, but deny, as pleaded, the remainder of the allegations in paragraphs 37, 38, 39, 40, 41, 42, 43, 44, 45, 45, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57 58, 59, 60 and 61, including all sub-paragraphs, of the Plaintiffs' Amended Complaint.

4. The Defendant respectfully demands a trial by jury on all genuine issues of material fact.

5. The Defendant denies Plaintiff's entitlement to any relief, including but not limited to the relief requested in the unnumbered "Prayer for Relief/Wherefore Clause" (including subsections A, B, C, D, E, F, and G) of the of Plaintiffs' Amended Complaint.

6. The Defendant specifically and expressly denies each and every allegation of the Plaintiffs' Amended Complaint that is not specifically and expressly admitted in this Answer.

7. The Defendant asserts and reserves the right to file an Amended Answer or other appropriate pleadings and to allege any affirmative defense(s) that might be available after a reasonable opportunity to investigate the allegations set forth in Plaintiffs' Amended Complaint.

#### **AFFIRMATIVE DEFENSES**

8. The Defendant asserts the following affirmative defenses:

A. All applicable immunities, including, but not limited to (and only as

applicable) punitive damages immunity, statutory tort/negligence immunity, sovereign immunity, and qualified immunity;

- B. Justification;
- C. Comparative fault;
- D. Waiver;
- E. Estoppel;
- F. Laches;
- G. Accord and satisfaction/payment;
- H. The FLSA and AMWA permit public entities to give compensatory time in lieu of overtime compensation;
- I. No standing to raise claims for others;
- J. Detrimental Reliance;
- K. Unjust Enrichment;
- L. Quantum Meruit;
- M. As applicable, the Plaintiff(s) is exempt from the FLSA &/or AMWA as an executive or administrative employee;
- N. Mootness;
- O. Offest/Setoff, to the extent that the Plaintiff(s) were given compensatory time, paid days off, or other forms of formal or informal compensation;
- P. The Fair Labor Standards Act (FLSA) and the Arkansas Minimum Wage Act (AMWA), including, but not limited to any and all exemptions;
- Q. Good faith under 29 U.S.C. §251, §§ 10 & 11, as applicable;
- R. The Plaintiff(s) has failed to mitigate any alleged damages, to the extent that

she/they failed to use any or all earned compensatory time;

- S. The Plaintiff has failed to state a claim upon which relief can be granted;
- T. Defendant avails itself of all statute of limitations defenses applicable to the claim(s) alleged by the Plaintiff(s), including, but not limited to the 2-years statute of limitations under the FLSA, which is applicable here as the Defendant did not willfully violate the Act.

WHEREFORE, the Defendant respectfully requests that the Complaint be dismissed and for any and all other just and proper relief to which it is entitled.

Respectfully submitted,

COLUMBIA COUNTY, ARKANSAS,  
*Defendant*

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By: /s/ Jason Owens  
Michael R. Rainwater, #79234  
Jason E. Owens, #2003003

**CERTIFICATE OF SERVICE**

I hereby certify that on the 16th day of March, 2018, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which shall notify the following attorneys of record:

Ms. Stacy Gibson  
Mr. Josh Sanford  
650 South Shackleford, Ste. 411  
Little Rock, AR 72211

/s/ Jason Owens  
Jason E. Owens